

REMARKS

In response to the Office Action dated March 19, 2009, Applicant respectfully requests reconsideration. Claims 1, 3-61 and 63-119 were previously pending. By this amendment, claims 33-60 and 91-119 are canceled without prejudice or disclaimer. No claims are amended or added. As a result, claims 1, 3-32, 61 and 63-90 are pending for examination with claims 1 and 61 being independent.

I. Elections/Restrictions

The Office Action alleges that the present application includes patentably distinct species requiring election including: A) method claims 1, 3-32 and apparatus claims 61, 63-90; B) method claims 33-60 and apparatus claims 91-116; and C) computer readable medium claims 117-119. Applicant herein elects claims 1, 3-32, 61 and 63-90 (i.e., the claims listed in alleged species group A). The remainder of the claims (i.e., 33-60 and 91-119) are canceled without prejudice or disclaimer.

II. Rejections Under 35 U.S.C. §101

The Office Action rejects claims 1, 3-32, 61, 63-90 and 117-119 as allegedly being drawn to non-statutory subject matter. With respect to canceled claims 117-119, the rejection is now moot.

i. Claims 1 and 3-32

According to the “machine-or-transformation” test set forth in *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008), a process claim is statutory under 35 U.S.C. §101 if it is: A) tied to a particular machine or apparatus, or B) transforms a particular article into a different state or thing. Claim 1 recites a method of “determining one or more properties of a body positioned proximate an *array of coils having a plurality of resonant coils*, each having one or more resonant properties including a resonant frequency at which the respective coil was configured to resonate,” and also requires “detecting a change in the *resonant frequency of at least one of the resonant coils* in the array resulting from the presence of the body.” The method claim is clearly tied to the array of coils having a plurality of resonant coils, thus satisfying the machine prong of the test. Accordingly, claim 1 is statutory under 35 U.S.C. §101. Claims 3-32 depend from claim 1 and are statutory

based at least on their dependency. In view of the foregoing, Applicant respectfully requests that the rejection of claims 1 and 3-32 under 35 U.S.C. §101 be withdrawn.

ii. Claims 61 and 63-90

The Office Action has erroneously categorized claims 61 and 63-90 as method claims (see Page 3, Office Action). Claims 61 and 63-90 are apparatus claims and therefore are directed to a “machine,” which is subject matter that is explicitly authorized as patent-eligible by 35 U.S.C. §101. Accordingly, Applicant respectfully requests that the rejection of claims 61 and 63-90 under 35 U.S.C. §101 be withdrawn.

III. Rejections Under 35 U.S.C. §102

The Office Action rejects claims 33-60 and 91-116 under 35 U.S.C. §102(e) as allegedly being anticipated by US Patent No. 6,477,398 (Mills). While Applicant does not agree with the rejection, claims 33-60 and 91-116 are canceled herein and the rejection is now moot. Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. §102 be withdrawn.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency or credit any overpayment in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 23/2825, under Docket No. B0662.70056US01.

Dated: July 20, 2009

Respectfully submitted,

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